

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of)	
)	
Petition of Southwestern Bell Telephone)	NSD File No. L-98-121
Company, Pacific Bell and Nevada Bell)	
for Expedited Declaratory Ruling on)	CC Docket No. 96-98
Interstate IntraLATA Toll Dialing Parity;)	
or in the Alternative, Various Other Relief)	

EMERGENCY MOTION TO DIMISS

MCI WorldCom, Inc. ("MCI WorldCom") hereby submits this motion to dismiss the above-referenced petition. *AT&T Corp. v. Iowa Utilities Board*¹ moots the two arguments raised by Southwestern Bell Telephone, Pacific Bell and Nevada Bell ("SBC") for delay in implementing dialing parity. MCI WorldCom respectfully requests that the Commission dismiss SBC's petition and instruct SBC to comply with valid federal rules, by immediately moving to implement dialing parity.²

DISCUSSION

In October 1998, SBC asked the Commission to declare that there is "no current obligation" for implementation of interstate intraLATA dialing parity in light of the Eighth Circuit's decision in *California v. FCC*, 124 F.3d 934 (8th Cir. 1997). In the alternative, SBC requested that the Commission waive or suspend the deadline for

¹ *AT&T Corp. v. Iowa Utilities Board*, 1999 WL 24568 (U.S.), decided January 25, 1999. (Supreme Court decision)

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interstate intraLATA dialing parity, in view of its allegation that “confusion” could result from the implementation of pre-subscription for only some subscribers in some areas, i.e., the interstate portion of intraLATA traffic. In a December 22, 1998 ex parte letter, SBC declared that it will “accept” a compromise to these two requests. SBC stated that it would agree to implement interstate intraLATA toll dialing parity coincident with intrastate intraLATA toll dialing parity, when ordered by a state commission, but in any case no later than March 31, 2000.³ Shortly thereafter, Bell Atlantic, BellSouth and USWest (BOCs) filed letters with the Commission and requested similar relief.⁴ MCI Worldcom has opposed all these requests.⁵

The Supreme Court opinion reinstated the federal dialing parity rules. Under the Commission’s rules, SBC must implement intraLATA dialing parity by February 8, 1999.⁶ In addition, the Commission has stated that it will consider waivers of its requirements only for LECs that are eligible under Section 251(f)(2) of the Act pertaining

² See, e.g., 47 CFR §§ 51.209 and 51.211(b).

³ See, Letter from Mr. Lincoln E. Brown, Director- Federal Regulatory, SBC to Ms. Magalie Roman Salas, Secretary, Federal Communication Commission, dated December 22, 1998.

⁴ See, Letter from Ms. Cynthia K. Cox, Executive Director-Federal and State Relations, BellSouth to Ms. Magalie Roman Salas, Secretary, Federal Communication Commission, dated December 30, 1998; letter from Mr. Elridge A. Stafford, Executive Director- Federal Regulatory, USWest, Inc., to Ms. Magalie Roman Salas, Secretary, Federal Communication Commission, dated December 31, 1998; and, letter from Ms. Marie T. Breslin, Director, Federal Regulatory, Bell Atlantic to Ms. Magalie Roman Salas, Secretary, Federal Communication Commission, dated January 4, 1999.

⁵ See, Letter from Ms. Mary De Luca, Senior Policy Advisor, Federal Regulatory, MCI Worldcom, Inc. to Ms. Anna M. Gomez, Chief, Network Service Division, Common Carrier Bureau, Federal Communications Commission, dated, January 12, 1999; and, letter from Ms. Mary De Luca, Senior Policy Advisor, Federal Regulatory, MCI Worldcom, Inc. to Ms. Magalie Roman Salas, Secretary, Federal Communication Commission, dated January 22, 1999.

⁶ 47 CFR § 51.211(a)

to rural carriers.⁷ Section 251(f)(2) applies only to carriers having less than 2 percent of the nation's subscriber lines. SBC is not such a carrier.

As the Commission is aware, all the states in the SBC region and a half dozen other states around the country have not yet imposed intrastate dialing parity requirements.⁸ Prior to the Supreme Court's decision of January 25, 1999, it was up to each state to determine for itself the meaning of the statutory requirements of Section 251(b)(3) and Section 271(e)(2) which, respectively, require all LECs to provide dialing parity and that defer dialing parity requirements for certain qualifying Bell Operating Companies (BOCs) until February 8, 1999.⁹ In the wake of the Court's decision, however, the Commission's rules now govern again. These requirements include:

- A clear deadline of February 8, 1999 to implement dialing parity (47 CFR §51.211(a));
- State commission review and approval of carrier-proposed implementation plans (47 CFR §§51.211(e) and 51.213); and,
- Implementation plans that allow the customer to pre-subscribe one carrier for interLATA toll calls and another for intraLATA toll calls. (47 CFR §51.209 (b))

⁷ See, *In the Matter of Implementation of the Local Commission Provisions of the Telecommunication Act of 1996, Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, Area Code Relief Plan for Dallas and Houston, Ordered by the Public Utility Commission of Texas, Administration of the North American Numbering Plan, Proposed 708 Relief Plan and 630 Numbering plan Area Code by Ameritech-Illinois*, CC Docket No. 96-98, CC Docket No. 95-195, NSD File No. 96-8, CC Docket No. 92-237, IAD File No. 94-102, Second Report and Order and Memorandum Opinion and Order, (August 8, 1996) (Second Interconnection Order) at para. 64 (noting that "Congress intended the dialing parity requirements...pursuant to 251(b)(3) to apply, without exception, to all LECs with 2 percent or more of the Nation's subscriber lines.)

⁸ These states are: Alabama, Arkansas, California, Maryland, Missouri, Nevada, Oklahoma, South Carolina, Tennessee, and Virginia. Kansas, North Dakota, South Dakota and Texas all have state telecommunications laws that limits the state commission from ordering the BOC to implement intraLATA dialing parity. Idaho has a similar statute that will expire in July 1999; USWest, however, has already proposed a bill to extend its exemption to 2002. AT&T, MCI Worldcom and the state commission all oppose this delay by USWest.

⁹ The FCC rules remained applicable to the interstate portion if intraLATA dialing parity.

Given the reinstatement of these (and other) rules, the relief requested by SBC is moot, and SBC's petition and the relief suggested by the other BOCs in their ex parte letters, must be summarily dismissed. It is clear that there is a current obligation on the part of all LECs to comply with the statute as the Commission has interpreted it. Moreover, it would be irresponsible to defer the deadline for intrastate intraLATA dialing parity on this record. In MCI WorldCom's view, there is no technical reason to delay intraLATA dialing parity further. Even SBC in its petition stated that it had "already prepared their respective networks to provide full 2 PIC intraLATA pre-subscription."¹⁰ In fact, in testimony before the Public Utility Commission of Nevada (NPUC) Nevada Bell stated that its switches are ready to provide intraLATA dialing parity and the only step that remains is to establish the "individual carriers as LPIC choices."¹¹ The majority of states either already require intrastate intraLATA dialing parity, or require it to be implemented on or shortly after February 8, 1999. These states are largely in compliance with the revalidated federal rules. The Commission need only enforce its rules and allow each state to review and approve implementation plans, if they have not already done so. Based upon knowledge and belief, in virtually every state that has not yet implemented intraLATA dialing parity, the relevant BOC has already filed an implementation plan.¹²

¹⁰ SBC petition at 3.

¹¹ See, Direct Testimony of Mr. Rod Russell, Director, Network Engineering and Planning, Nevada Bell at 3-4. *Application by Nevada Bell for Approval of a Plan to Implement IntraLATA Toll Dialing Parity and 0+ and 1+ IntraLATA Pre-subscription*, Nevada Public Utility Commission, February 7, 1997. (Provided in Attachment I.)

¹² SBC, for example, has implementation plans on file in California, Nevada, Missouri, Oklahoma and Texas; Bell Atlantic in Maryland and Virginia. BellSouth, on the other hand, has filed a tariff in Alabama, South Carolina and Tennessee addressing intraLATA dialing parity, but are still under review by the state commission.

In most states, California, for example, the CPUC has already approved the implementation plan and is only waiting to establish a date for implementation.

The FCC rules, now reinstated, provide the one “black letter” rule of law lacking in a handful of states, i.e., the date for implementation. While the Commission may wish to work cooperatively with state commissions to ensure that remaining implementation plans are expeditiously reviewed, there should be no thought given to BOC requests for blanket delay in the rules, and under no circumstances should the instant petition be considered a moment longer.

CONCLUSION

The Supreme Court decision has reinstated the Commission's 1996 dialing parity rules. These rules require all BOCs to implement intraLATA dialing parity no later than February 8, 1996. SBC's October petition requesting relief no longer has any basis in law. SBC and all BOCs are required to implement BOTH intrastate and interstate intraLATA dialing parity by February 8, 1999. Accordingly, the requests of SBC, Bell Atlantic, BellSouth and USWest must be dismissed as moot.

Respectfully submitted,

MCI WORDLCOM, INC.

By: 

Mary De Luca

Henry G. Hultquist

MCI Worldcom, Inc.

1801 Pennsylvania Avenue, N.W.

Washington, D.C. 20006

202.887.3045

Dated: January 27, 1999

ATTACHMENT I

Direct Testimony of Mr. Rod Russell, Nevada Bell

February 7, 1997

BEFORE THE PUBLIC SERVICE COMMISSION OF NEVADA

In the Matter of an Application)
by Nevada Bell for Approval of)
Nevada Bell's Plan to Implement)
IntraLATA Toll Dialing Parity) Docket No. 97-_____
and 0+ and 1+ IntraLATA)
Presubscription.)
_____)

APPLICATION BY NEVADA BELL FOR APPROVAL OF
A PLAN TO IMPLEMENT INTRALATA TOLL DIALING PARITY
AND 0+ and 1+ INTRALATA PRESUBSCRIPTION

February 7, 1997

Applicant:

Nevada Bell
645 E. Plumb Lane
Reno, Nevada 89502

NEVADA BELL

DIRECT TESTIMONY OF

ROD RUSSELL

DOCKET NO. _____

EXHIBIT NO. _____

DATE: February 7, 1997

1 Q. Please state your name and your business address.

2 A. My name is Rod Russell. My business address is 645 E.
3 Plumb Lane, Reno, Nevada.

4
5 Q. By whom are you employed, and what is your present
6 position?

7 A. I am employed by Nevada Bell as director, network
8 engineering and planning.

9
10 Q. Please state your work experience.

11 A. I have 24 years service with Nevada Bell. I began my
12 career as a technician in installation and
13 construction. I was promoted to management in 1980. I
14 have been assigned to positions of increasing
15 responsibility as a central office supervisor, a
16 network control supervisor, a network design engineer
17 and a senior planning engineer. I was promoted to
18 director of network engineering and planning in 1996.

19

20

21

1 Q. What is the purpose of your testimony in this
2 proceeding?

3 A. The purpose of my testimony is to support the technical
4 aspects of Nevada Bell's plan to implement intraLATA
5 toll dialing parity and intraLATA presubscription. I
6 am available to address any technical questions with
7 respect to how the plan will work in terms of central
8 office capability, the "2-PIC" technology, switching,
9 routing and the like.
10

11 Q. What technology is Nevada Bell using to implement toll
12 dialing parity and intraLATA presubscription?

13 A. As noted in the plan and in the testimony of Nevada
14 Bell witness Nick Facque, we have deployed a "2-PIC"
15 option for dialing parity and intraLATA
16 presubscription. The 2-PIC capability will allow
17 customers to choose a single interexchange carrier for
18 both interLATA and intraLATA long distance calling; to
19 choose two interexchange carriers, one for interLATA
20 calling and one for intraLATA calling; or to choose an
21 interexchange carrier for interLATA calling and Nevada
22 Bell for intraLATA calling.

1 Q. What happens when a customer chooses an intraLATA toll
2 carrier other than Nevada Bell?

3 A. As Mr. Facque noted in his testimony, once a customer
4 places an order to choose or to change an intraLATA
5 PIC, we will program the change so that our central
6 office translations will route intraLATA long distance
7 calls to the customer's carrier of choice. The calls
8 will be routed to the other carriers over standard
9 trunking and interconnection arrangements. Those
10 arrangements are already in place for most carriers.

11

12 Q. Will Nevada Bell be ready to implement its plan for
13 toll dialing parity and intraLATA presubscription in
14 the September time frame if the company receives
15 interLATA approval from the FCC?

16 A. Yes, we will. As Mr. Facque pointed out, Nevada Bell
17 central offices utilize AT&T 5ESS and NorTel DMS-100
18 and DMS-10 switching equipment. The central offices
19 have already been equipped with the hardware and
20 software capability to offer 2-PIC technology. All
21 that remains to be done is to establish the individual
22 carriers as LPIC choices in the central offices and to

1 complete the translations to implement individual
2 customer choices.

3

4 Q. Can you technically support Nevada Bell's proposal to
5 implement this plan statewide on the same date?

6 A. Yes, we can. Since the software and hardware required
7 are already in place, we can do the necessary
8 translations so that implementation can occur
9 simultaneously statewide.

10

11 Q. What is your recommendation to the Commission?

12 A. I recommend that the Commission approve Nevada Bell's
13 plan to implement toll dialing parity and intraLATA
14 presubscribed equal access as filed. The plan is
15 technically feasible, practical and can be implemented
16 as described by Mr. Facque.

17

18 Q. Does this conclude your prepared testimony?

19 A. Yes, it does.

Public Service Commission
of Nevada

AFFIRMATION

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

Rod A. Russell, being duly sworn, deposes and says:

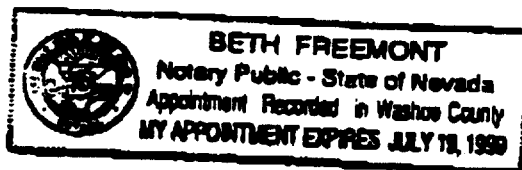
That he is the person identified in the foregoing testimony and the exhibit/s applicable to his testimony, that such testimony and exhibit/s were prepared by or under his direction, that the answers and information set forth therein are true to the best of his knowledge and belief, and that if asked the questions set forth therein, his answer thereto would, under oath, be the same.



Rod A. Russell

Subscribed and sworn to
before me this 6th day
of September 1997.


NOTARY PUBLIC



CERTIFICATE OF SERVICE

I, Sylvia Chukwuocha, do hereby certify that on this 27th day of January, 1999, copies of the foregoing Emergency Motion to Dismiss of MCI WorldCom, Inc. were served on each of the following persons:

Robert M. Lynch
Durward D. Dupre
Darryl W. Howard
Southwestern Bell Telephone Co.
One Bell Plaza, Room 3703
Dallas, TX 75202

Mark L. Evans*
Geoffrey M. Klineberg
Kellogg, Huber, Hansen,
Todd & Evans, P.L.L.C.
1301 K Street, N.W., Suite 1000 West
Washington, DC 20005

Magalie Roman Salas*
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, DC 20554

Al McCloud*
Network Services Division
Federal Communications Commission
2000 M Street, N.W.
Room 235
Washington, DC 20554

International Transcription Service, Inc.*
1231 20th Street, N.W.
Washington, DC 20036

Mark C. Rosenblum
Roy E. Hoffinger
James H. Bolin, Jr.
AT&T Corp.
295 North Maple Ave
Room 3249J1
Basking Ridge, NJ 07920

David W. Carpenter
Joseph R. Guerra
Sidley & Austin
17221 I Street, N.W.
Washington, DC 20006

John M. Goodman
Bell Atlantic
1300 I Street, N.W.
Suite 400 West
Washington, DC 20005

Michael E. Glover
Bell Atlantic
1320 North Court House Road
8th Floor
Arlington, VA 22201

M. Robert Sutherland
Theodore R. Kingsley
BellSouth Corporation
Suite 1700
1155 Peachtree Street, N.E.
Atlanta, GA 30309-3610

Russell M. Blau
Pamela S. Arluk
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W.
Suite 300
Washington, DC 20007

James M. Smith
Excel Telecommunications, Inc.
1133 Connecticut Ave., N.W.
Suite 750
Washington, DC 20036

Tiki Gaugler
Jane Kunka
Qwest Communications Corporation
4250 North Fairfax Drive
12W002
Arlington, VA 22203

Joseph T. Garrity
Qwest Communications Corporation
555 17th Street
Denver, CO 80202

Leon M. Kestenbaum
Jay C. Keithley
Norina T. Moy
Sprint Corporation
1850 M Street, N.W.
Suite 1110
Washington, DC 20036

Robert B. McKenna
US West Communications, Inc.
1020 19th Street, N.W.
Washington, DC 20036

Anna Gomez*

Federal Communications Commission
2000 M Street, N.W.
Room 235-B
Washington, DC 20554

Kurt Schroeder*

Federal Communications Commission
2000 M Street, N.W.
Room 235
Washington, DC 20554

Gregory Cooke*

Federal Communications Commission
2000 M Street, N.W.
Room 235
Washington, DC 20554

Robin Smolen*

Federal Communications Commission
2000 M Street, N.W.
Room 235
Washington, DC 20554

Yog Varma*

Federal Communications Commission
1919 M Street, N.W.
Room 500
Washington, DC 20554

Larry Strickling*

Federal Communications Commission
1919 M Street, N.W.
Room 658
Washington, DC 20554

Kathy Brown*

Federal Communications Commission
The Portals
445 12th Street S.W.
8th Floor
Washington, DC 20554

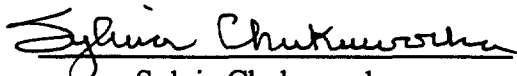
Paul Misiner*

Federal Communications Commission
The Portals
445 12th Street S.W.
8th Floor
Washington, DC 20554

James Casserly*
Federal Communications Commission
The Portals
445 12th Street S.W.
8th Floor
Washington, DC 20554

Kyle Dixon*
Federal Communications Commission
The Portals
445 12th Street S.W.
8th Floor
Washington, DC 20554

Paul Gallant*
Federal Communications Commission
The Portals
445 12th Street S.W.
8th Floor
Washington, DC 20554


Sylvia Chukwuocha

*Hand Delivery